



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
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HARRISBURG, PA 17120

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SEP 23 2014

FCC Mail Room

PAMELA A. WITMER
COMMISSIONER

September 17, 2014

DOCKET FILE COPY ORIGINAL

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

~~DOCKET FILE COPY DUPLICATE~~

RE: Petition of the Pennsylvania Public Utility Commission for Declaratory Order On Whether State Public Utility Commissions are Entitled to Adjudicate Inter-carrier Compensation Disputes Involving the Exchange of Local Dial-Up Internet Traffic Between Carriers with Indirect Interconnection, WC Docket No. 14-70

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Federal Communications Commission's (FCC) rules, I am filing this notice concerning a meeting between myself, Commissioner Mignon L. Clyburn, and her staff held on September 15, 2014. Those in attendance from the FCC were Commissioner Mignon L. Clyburn and her personal staff members, Rebekah Goodheart, Wireline Legal Advisor, and Louis Peraertz, Wireless, Public Safety and International Legal Advisor. The meeting generally discussed the above-captioned proceeding in which I represented Commissioner Witmer's concerns.

I discussed the PAPUC Petition for Declaratory Order (Petition) currently pending before the FCC, including the reasons why the PAPUC filed the Petition. I also emphasized Commissioner Witmer's concern for a timely clarification from the FCC on the matter so that the states and the FCC can work collectively to adjudicate inter-carrier compensation disputes in accordance with the FCC's *ISP Remand Order* and, in general, other applicable federal directives. I further discussed the procedural status of the pending federal appellate litigation concerning its authority to enforce the inter-carrier compensation rates and terms established by the FCC in its *ISP Remand Orders*. In my discussion, I provided Commissioner Clyburn and her staff, Rebekah Goodheart and Louis Peraertz, with talking points prepared by Commissioner Pamela A. Witmer (Attachment A) and the PAPUC's August 28, 2014 Ex Parte Letter disclosing the PAPUC's meeting with FCC staff from the FCC's Wireline Competition Bureau and Office of General Counsel. The referenced document can be accessed at (<http://apps.fcc.gov/ecfs/document/view?id=7521825406>).

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September 17, 2014

page 2

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission

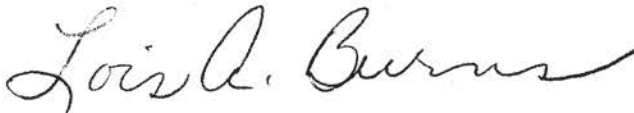
Also, the PAPUC's Reply Comments filed in this proceeding as well as the PAPUC's Petition for Declaratory Order and attachments as filed at the above named docket were provided to those in attendance. The referenced documents can be accessed at

<http://apps.fcc.gov/ecfs/document/view?id=7521745071>;

<http://apps.fcc.gov/ecfs/document/view?id=7521124305>.

Thank you for your attention to this correspondence.

Sincerely,



Lois A. Burns
Legal Counsel
Office of Commissioner Pamela A. Witmer
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

cc: Commissioner Mignon L. Clyburn
Rebekah Goodheart, Wireline Legal Advisor, Office of Commissioner Mignon L. Clyburn
Louis Peraertz, Wireless, Public Safety and International Legal Advisor,
Office of Commissioner Mignon L. Clyburn

Attachment A

SEP 23 2014

Meeting with FCC Commissioner Mignon Clyburn on September 15, 2014

FCC Mail Room

- PAPUC staff met with Victoria Goldberg and Kalpak Gude and several others from the Wireline Bureau and Marcus Maher from the Office of General Counsel on August 26, 2014 to discuss the PAPUC's pending Petition for Declaratory Order.

- August 26, 2014 Ex Parte Meeting discussed two specific requests:

First, the FCC acted quickly because of PAPUC pending 3rd Circuit appeal.

Second, the Commission granted the PAPUC's April 30, 2014 Petition and clarify that states have jurisdiction to enforce a federal rate in accordance with the *ISP Remand Order* when resolving intercarrier compensation (ICC) disputes between two indirectly interconnected CLECs involving the exchange of locally dialed ISP-bound traffic.

- PAPUC Petition filed because the U.S. District Court ruled that locally dialed ISP-bound traffic is interstate in nature and subject to exclusive FCC jurisdiction. The decision upends FCC's precedent in its 9th Circuit Amicus Brief that the *ISP Remand Order* preempts only inconsistent state regulation of local ISP traffic.
- In the ICC case before the PAPUC (December 2012 Order), the agency simply enforced a federal rate involving local ISP-bound traffic exchanged between indirectly interconnected carriers during the time period of 2004-2009. No compensation has been paid for the traffic terminated on the other carrier's network.
- PAPUC believes certain repercussions may occur if its Petition is not granted:

Recent District Court decision results in the FCC devoting resources to resolve ICC disputes in all 50 states in matters similar to this case and in other areas like VoIP. Carriers may have to file complaints at the state and federal level to resolve ongoing ICC disputes.

Courts may determine the FCC's authority by acting if the FCC does not act quickly on the PAPUC's Petition.

States' willingness and statutory obligation to continue to adjudicate and enforce matters arising under and in accordance with FCC rules and orders may be jeopardized.

Attachments: August 28, 2014 Ex Parte Notice filed by the PAPUC; PAPUC April 30, 2104 Petition for Declaratory Order with attachments, and July 30, 2014 Reply Comments

Commissioner Pamela A. Witmer
Pennsylvania Public Utility Commission
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